

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JOHN FISHER, JR.

v.

UNITED STATES MARSHALS SERVICE, et al.

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NO. 3:14-1795

TO: Honorable Kevin H. Sharp, Chief District Judge

REPORT AND RECOMMENDATION

By Order entered September 30, 2014 (Docket Entry No. 19), the Court referred this action to the Magistrate Judge to enter a scheduling order for the management of the case, to dispose or recommend disposition of any pretrial motions under 28 U.S.C. §§ 636(b)(1)(A) and (B), and to conduct further proceedings, if necessary, under Rule 72(b) of the Federal Rules of Civil Procedure and the Local Rules of Court.

The plaintiff is a federal pre-trial detainee who proceeds pro se in this action. On September 3, 2014, he filed this civil lawsuit in forma pauperis seeking various forms of relief under 42 U.S.C. § 1983 for violations of his federal constitutional rights alleged to have occurred at the Robertson County Detention Center (“RCDC”) in Springfield, Tennessee, where he was confined at the time. By the Order of referral and accompanying Memorandum (Docket Entry No. 18), the Court found that the plaintiff’s claims against the United States Marshals Service and the Robertson County Jail, as well as his First Amendment claim for denial of access to court, warranted dismissal under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A, but found that the plaintiff stated a colorable claim

for deliberate indifference to his serious medical needs against Defendants Southern Health Partners and Dr. Matthews. The Court is awaiting the return of completed service packets from the plaintiff for these two defendants so that process can issue to them.

Presently pending before the Court are the plaintiff's motion to transfer (Docket Entry No. 5), motion for a temporary restraining order and preliminary injunction (Docket Entry No. 8), and motion for a "preliminary injunction transfer to Grayson, Ky." (Docket Entry No. 14). In these motions, the plaintiff seeks injunctive relief to: 1) order his transfer from the RCDC to the facility in Grayson, Kentucky; and 2) order the Defendants to provide him with medical care and access to legal materials at the RCDC.

The Court takes judicial notice of the fact that the plaintiff filed a similar motion in the pending criminal case against him seeking his transfer from the RCDC to the facility at Grayson, Kentucky. See Docket Entry No. 90, United States of America v. John Fisher, No. 3:13-cr-00091. In its response to the motion, the Government stated that the plaintiff was transferred from the RCDC to the Criminal Justice Center in Davidson County, Tennessee, on September 30, 2014, see Docket Entry No. 93, and the Court denied the plaintiff's motion as moot. See Order entered October 1, 2014 (Docket Entry No. 94).¹

Accordingly, the plaintiff's several motions for preliminary injunctive relief should be DENIED. The plaintiff's recent transfer from the RCDC moots both his request for a transfer and his request for an order that he be provided with health care and access to legal materials at the


¹ The Court notes that, despite the apparent change in the location of his detention, the plaintiff has not yet filed a change of address notice in this action.

RCDC. Further, this Court, in the context of a civil lawsuit, has no authority to mandate the location of the plaintiff's pre-trial detention in the criminal proceedings brought against him.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this Report and Recommendation and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

In addition to sending a copy of this Report and Recommendation to the plaintiff at the address listed for him on the docket, the Clerk is directed to send a copy to the plaintiff at the Criminal Justice Center, Davidson County Sheriff's Office, P.O. Box 196383, Nashville, TN 37129.

Respectfully submitted,


JULIET GRIFFIN
United States Magistrate Judge